



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board of Counseling, Department of Health Professions
Virginia Administrative Code (VAC) citation	18VAC115-50-10 et seq.
Regulation title	Regulations Governing the Practice of Marriage and Family Therapy
Action title	Supervision of residency and requirement for examination for licensure
Document preparation date	1/4/07

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The Board intends to amend regulations for the licensure of marriage and family therapists to require that at least 100 of the 200 hours of clinical supervision in a residency be provided by a licensed marriage and family therapist and to repeal the provision that allows a person holding a license as a professional counselor to be granted a license as a marriage and family therapist without further examination. The action is in response to a petition for rule-making submitted by Dr. Arnold Woodruff, President of the Virginia Association for Marriage and Family Therapy. It was strongly supported by comment to the Board from licensed MFT's and others.

The purpose of the action is to ensure that persons who hold the marriage and family therapy license are specifically trained, experienced and tested in the unique theories and modalities for addressing the needs of their clients. While other mental health professionals can and do treat individuals and families, the public needs to have assurance that a person who hold a license as a marriage and family therapist is appropriately qualified in the application of theory and technique.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly

chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400 (6) provides the Board of Counseling the authority to promulgate regulations to administer the regulatory system:

§ 54.1-2400 -General powers and duties of health regulatory boards

The general powers and duties of health regulatory boards shall be:

...

6. *To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title. ...*

The specific authorization to promulgate regulations establishing the qualifications for licensure as a marriage and family therapist is found in the following section:

§ 54.1-3505. Specific powers and duties of the Board.

“...6. To promulgate regulations for the qualifications, education, and experience for licensure of marriage and family therapists. The requirements for clinical membership in the American Association for Marriage and Family Therapy (AAMFT), and the professional examination service's national marriage and family therapy examination may be considered by the Board in the promulgation of these regulations. The educational credit hour, clinical experience hour, and clinical supervision hour requirements for marriage and family therapists shall not be less than the educational credit hour, clinical experience hour, and clinical supervision hour requirements for professional counselors.”

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

Section 60 of 18VAC115-50, which sets out the requirements for a residency in marriage and family therapy, would be amended to specify that at least 100 of the required 200 hours of face-to-face supervision be provided by a person holding a license as a marriage and family therapist. The requirement would be similar to that for licensed professional counselors and would include a provision to allow the Board to consider special requests in the event that the regulations create an undue burden in regard to geography or disability which limits the resident's access to qualified supervision.

In addition, section 40 would be amended to repeal 3 b, which allows a person holding a license as a licensed professional counselor to be licensed by endorsement without taking and passing the national examination in marriage and family therapy. Both changes would provide the consumer of mental health services with greater assurance about the training and competency of the practitioner who holds a license to provide marriage and family therapy.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

When the marriage and family therapist license was first established in the Code and regulations became effective in 1997, it was necessary to allow supervision of a residency to be provided by licensed professional counselors and other mental health professionals, since there were no licensed MFT's in Virginia. At that time, the Board also determined that professional counselors who had also had training and education in marriage and family therapy should be able to "endorse in" and obtain the MFT license without further examination.

In the intervening 10 years, the number of licensed MFT's has grown to 828 in Virginia, so the rationale behind regulation in 1997 no longer exists. According to professional counselors and marriage and family therapists who sit on the Board, there is a growing distinction among the disciplines in counseling, evidenced by differences in educational focus and training. There are distinctive differences in the therapy paradigm and systemic differences in theory and application of theory with respect to marriage and family systems. The distinctiveness is important enough to justify the need for half of the personal supervision to be provided by someone with a marriage and family license and for passage of a national examination that tests one's knowledge in the theories of marriage and family therapy.

With changes in the regulation, only half of the 200 hours of supervision would have to be provided by a licensed MFT, while the other half could be given by a professional counselor or other mental health practitioner. In addition, there would be a waiver provision by which a resident who had difficulty working out a supervisory relationship with a MFT could seek an exception to the rule. While a person seeking to be licensed as a MFT would have to pass the national examination in marriage and family therapy, a licensed professional counselor, licensed social worker, or other mental health professional could continue to provide marriage or family counseling, but could not hold themselves out to the public as being licensed as a marriage and family therapist without minimal competency evidenced by passage of a national examination.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

The proposed regulatory action may strengthen the institution of the family and family stability by ensuring that persons licensed as marriage and family therapists have been appropriately trained and examined.